

**193A—11.3(542C) Independence, integrity and objectivity.**

**11.3(1) *Independence.*** A CPA or a firm of which the CPA is a partner or shareholder shall not express an opinion on financial statements of an enterprise in such a manner as to imply that the CPA is acting as an independent public accountant with respect thereto unless the CPA is independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

*a.* During the period of the professional engagement, or at the time of expressing an opinion, the CPA:

(1) Had or was committed to acquire any direct or material indirect financial interest in the enterprise; or was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

(2) Had any joint closely held business investment with the enterprise or any officer, director or principal stockholder thereof which was material in relation to the net worth of either the CPA or the enterprise; or

(3) Had any loan to or from the enterprise or any officer, director or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms and requirements: Loans obtained by the CPA which are not material in relation to the net worth of the borrower; home mortgages; and other secured loans, except those secured solely by a guarantee of the CPA.

*b.* During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the CPA:

(1) Was connected with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

(2) Was a trustee for any pension or profit-sharing trust of the enterprise.

The foregoing examples are not intended to be all-inclusive.

**11.3(2) *Performance of services below direct cost.*** A CPA who performs or offers to perform attest services involving audit and review skills for compensation that is less than direct labor cost reasonably expected to be incurred in performing the service creates a presumption of loss of independence and objectivity.

*a.* Direct labor cost means the total compensation paid to the person or persons actually performing the services including direct out-of-pocket expenses and the employer payroll expenses, such as workers' compensation insurance premiums, social security contributions, and unemployment taxes related to the compensation paid to the person or persons actually performing the services.

*b.* This rule does not apply to the donation of services to a charitable organization.

**11.3(3) *Integrity and objectivity.*** A CPA or AP shall not, in the performance of professional services, knowingly misrepresent facts, subordinate judgment to others, or allow professional judgment to be impaired by self-interest. In tax practice, however, a CPA or AP may resolve doubt in favor of the client as long as there is reasonable support for this position.

**11.3(4) *Commissions.*** A CPA or AP may accept a commission subject to the prohibitions set forth in Iowa Code section 542C.3, subsection 6, and the restrictions set forth in these rules.

*a.* A CPA or AP engaged in the practice of public accounting must act in the best interests of the client and shall not allow integrity, objectivity or professional judgment to be impaired by the self-interest a commission-based fee may create.

*b.* A CPA or AP who anticipates receiving a commission in connection with the recommendation, referral or sale of a product or service must establish such procedures as are reasonably necessary to avoid the prohibitions set forth in Iowa Code section 542C.3, subsection 6.

*c.* A CPA or AP engaged in the practice of public accounting who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the CPA or AP recommends, refers or sells a product or service to which the commission relates.

*d.* To ensure full and effective disclosure, a CPA or AP shall substantially adhere to the following guidelines when recommending, referring or selling a product or service to which a commission relates:

(1) The disclosure shall be in writing, signed and dated by the person to whom a product or service is recommended, referred or sold, and a copy shall be provided to the client.

(2) The disclosure shall be made at or prior to the time the product or service is recommended, referred or sold.

(3) The disclosure shall be legible, clear and conspicuous, and on a separate form.

(4) A copy of the disclosure shall be retained by the CPA or AP for as long as the CPA or AP deems appropriate to the transaction; however, the board recommends a minimum of three years.

(5) In the event of a continuing engagement or series of related transactions involving similar products or services, one written disclosure may cover more than one recommendation, referral or sale as long as the disclosure is provided at least annually and is not misleading.

This rule does not prohibit payments for the purchase of all, or a material part, of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to heirs or estates of such persons.

**11.3(5)** *Contingent fees.* A CPA or AP may accept contingent fees as defined in rule 193A—11.1(542C) subject to the prohibitions set forth in Iowa Code section 542C.3, subsection 6, and restrictions set forth in these rules.

**11.3(6)** Rescinded IAB 7/30/97, effective 9/3/97.